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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**
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12 RAPHYAL CRAWFORD,

13 Petitioner,

14 vs.

15 UNITED STATES OF AMERICA

16 Respondent.
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Criminal Case No. 01cr141-IEG
Civil Case No. 07cv2136-IEG

**ORDER GRANTING
RESPONDENT'S MOTION FOR A
FINDING PETITIONER WAIVED
ATTORNEY CLIENT PRIVILEGE
[Doc. No. 372]**

18 Presently before the Court is Respondent's motion for waiver of attorney-client privilege.

19 On November 7, 2007, Petitioner filed a motion to vacate, set aside, or correct his sentence
20 pursuant to 28 U.S.C. § 2255.

21 Petitioner claims his defense attorney, Michael McCabe was ineffective in (1) failing to
22 raise certain objections to the pre-sentence report prepared for Petitioner's sentencing and (2)
23 failing to object to the district court's failure to make use of the pre-sentence report at sentencing.

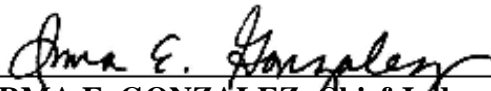
24 As the Ninth Circuit has recently observed "[i]t has long been the rule in the federal courts
25 that, where a habeas petitioner raises a claim of ineffective assistance of counsel, he waives the
26 attorney-client privilege as to all communications with his allegedly ineffective lawyer." Bittaker
27 v. Woodford, 331 F.3d 715, 716 (9th Cir. 2003). The court explained that such waiver should be
28 no larger than necessary to litigate the claim of ineffective assistance of counsel in federal court.

1 Id. at 722.

2 Accordingly, because Petitioner here raises a claim of ineffective assistance of counsel, the
3 Court finds he has waived the attorney-client privilege as to communications raised in Petitioner's
4 motion and related to the litigation of his federal habeas petition.

5 **IT IS SO ORDERED.**

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8 **DATED: April 1, 2008**

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10 **IRMA E. GONZALEZ, Chief Judge**
11 **United States District Court**
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